

Appl. No. : 10/762,209  
Filed : January 20, 2004

### **REMARKS**

This paper is in response to the final Office Action dated July 27, 2005. Applicants have amended the application as set forth above. Specifically, Claims 1, 6 and 11 have been amended, and Claims 24-36 have been added. Upon the entry of the amendments, Claims 1-36 are pending in this application. Applicants respectfully request the entry of the amendments and reconsideration of the application in view of the above amendments and the following remarks.

#### Request for Continued Examination

Applicants are requesting continued examination of this application in the accompanying paper. As such, Applicants respectfully request removal of the finality of the rejections in this application.

#### Discussion of Amendments

The amendments to Claim 1 are to clarify the invention and are supported by the original specification and drawings. The language added to Claim 1 and new Claims 31 and 34 are supported by, for example, the very language deleted from Claim 1 and Figures 8 and 16. Claim 6 has been amended to add a period at its end. Claim 11 has been amended to correct a grammatical error. New Claims 24, 25 and 32 are supported by the specification and drawings, including, for example, Figures 3, 10, 18 and 21. New Claims 26 and 30 are supported by the specification and drawings, including, for example, Figures 1, 2a, 2b, 3, 10 and 18. New Claims 27, 28, 35 and 36 are supported by the specification and drawings, including, for example, Figures 3, 4, 10, 11, 18, 19 and 21. As such, Applicants respectfully submit that the amendments are fully supported by the application as originally filed and do not add new matter. Applicants respectfully request the entry of the amendments.

#### Discussion of Objection to Claims 10 and 11

The Examiner has objected to Claim 10 and suggests that Applicants change the term “interdependently” to “independently” to conform to subsequent claims. Applicants respectfully submit that the term “interdependent” describes a feature of an embodiment of the invention and is proper. Further, because no claims subsequent to Claim 10 depend therefrom, Claim 10 does

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not have to conform to its subsequent claims.

The Examiner objected to Claim 11 as containing a grammatical error in the term "rotates." In reply, Applicants have amended Claim 11 as suggested by the Examiner.

#### Discussion of Rejection Under 35 U.S.C. § 102

The Examiner rejected Claims 1, 2, 4, 6-10 and 23 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,115,886 to Fujita. Applicants respectfully submit that Claim 1 and its dependent claims are not anticipated by Fujita as discussed below.

#### The Law of Anticipation

Anticipation under Section 102 can be found only if a reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775 (Fed. Cir. 1985). More particularly, a finding of anticipation requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention. *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052 (Fed. Cir. 1994). "To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim." *Brown v. 3M*, 265 F.3d 1349 (Fed. Cir. 2001). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

#### Disclosure of Fujita

Fujita discloses a hinge apparatus for use with a portable telephone. Figure 5 of Fujita illustrates a portable telephone 10 with two identical hinge apparatuses A and B. According to the illustration of Figures 6 and 7, each of the hinge apparatuses A and B is located near a corner of the microphone unit 11 and earphone unit 12 of the portable telephone 10. Each hinge apparatus A and B includes a shaft 1, a cam 6 and a slide cam 8. In operation, the slide cam 8 is slidable along the shaft 1, and the cam 6 is rotatable about the shaft 1. The components of the hinge apparatus A and B are inserted into an attachment hole 12b formed in the earphone unit 12 of the portable telephone 10. See Figures 5 and 7 and Column 3, lines 24-46.

Fujita does not teach or suggest a housing for the hinge apparatuses. Rather, the earphone unit 12 encloses the hinge apparatuses A and B in the attachment hole 12b. Fujita does not teach or suggest a housing that is movable relative to both the microphone unit 11 and earphone unit 12. Accordingly, Fujita does not teach or suggest a housing that is located between

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the microphone unit 11 and earphone unit 12. Further, Fujita does not teach or suggest that rotational axes of the two hinge apparatuses A and B extend side-by-side. Rather, the rotational axes of the two hinge apparatuses A and B are overlapping and should be substantially overlapping for proper operation.

#### Claim 1

Claim 1 recites, among other features, a first unit, a second unit, a hinge device interconnecting the first and second units. The hinge device of Claim 1 includes a housing that is movable relative to both the first and second units.

#### Fujita Does Not Disclose Every Element of The Claims

Fujita does not disclose every element of Applicants' claims, and therefore cannot be considered as an anticipatory reference under 35 U.S.C. § 102(b). As noted above, Fujita does not teach the claimed feature that the housing of the hinge device is movable relative to both the first and second units. Accordingly, Fujita does not anticipate Claim 1 and its dependent claims, including Claims 2, 4, 6-10 and 23. Applicants respectfully request that the rejection of Claim 1, 2, 4, 6-10 and 23 be withdrawn.

#### Discussion of Rejection Under 35 U.S.C. § 103

The Examiner rejected Claims 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Fujita in view of U.S. Patent No. 5,732,331 to Harms. However, Applicants respectfully submit that Claims 21 and 22 are patentable over the references alone and in combination as discussed below.

#### Standard for Obviousness Rejection

The Patent and Trademark Office has the burden under section 103 to establish a *prima facie* case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-87 (Fed. Cir. 1984). To establish a *prima facie* case of obviousness, three basic criteria must be met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143.

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### Disclosure of Harms

Harms discloses a portable radio having a detachable flip unit and a hinge 30. The hinge of this portable radio includes a slot 34 integrally attached to main unit 12 and a rod 36 integrally attached to flip unit 14. See Figures 3 and 4, and column 1, lines 16-25. The rod 36 is securable and rotatable within the slot 36. However, Harms does not teach or suggest a housing of the hinge that is movable relative both of the main unit 12 and the flip unit 14.

### Prima Facie Case Has Not Been Established

Claims 21 and 22 depend from Claim 1 and therefore incorporate all the features of Claim 1, including that the housing is movable relative to both the first and second units. As discussed in connection with the rejection under section 102, Fujita fails to teach or suggest this feature of Claim 1. Nor does Harms teach or suggest this claimed feature. As such, the references alone and in combination do not teach or suggest all the imitations of Claim 1, and therefore Claims 21 and 22. Therefore, no *prima facie* case of obviousness has been established. Applicants respectfully request withdrawal of the rejection.

### **CONCLUSION**

The Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Respectfully submitted,

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